Australian Energy Market Commission
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Sydney NSW 2000

By email: submissions@aemc.gov.au

National Energy Retail Amendment (Improving Consumer Confidence in Retail Energy Plans) Rule 2025

Alinta Energy welcomes the opportunity to provide comment on the draft rule determination "Improving Consumer Confidence in Retail Energy Plans "

Alinta Energy, as an active investor in energy markets across Australia with an owned and contracted generation portfolio of nearly 3,000MW and more than 1.1 million electricity and gas customers has a strong interest in ensuring consumer confidence in the retail energy market.

Energy retailers are naturally incentivised to ensure there is a high level of consumer confidence in the retail energy market. However, promoting and maintaining consumer confidence is not solely the responsibility of retailers. The retail energy market comprises a range of participants - including Government, departments, and statutory authorities - and it is incumbent on all parties to play a role in upholding and enhancing consumer confidence, particularly through accurate, balanced communication.

It is therefore disappointing to observe a pattern of negative reporting on the retail energy market, including by statutory authorities. These communications have tended to overlook opportunities to recognise and communicate the positive contributions of energy retailers, particularly in cases where retailers exceed their regulatory obligations to support the community. The recent response of energy retailers in assisting customers impacted by Ex-Tropical Cyclone Alfred serves as a clear example.

This is not to suggest there is no potential room for improvement within the energy market. There are always opportunities to further raise consumer confidence. However, this must be done collaboratively - across retailers, networks, government departments, Ombudsman scheme - through clear and aligned communication that reflects the positive actions taken by participants across the energy sector.

Alinta Energy remains committed to working collaboratively with all parties to support and promote consumer confidence.

In considering the proposed rule change the Commission must give careful consideration for the potential to introduce further risk that will ultimately impose additional costs on consumers.

In addition, there are a number of related consultations currently underway, including the AER's Payment Difficulty Review, the ESC's Retail Code of Practice Review and the recently released ECMC *Better energy customer experiences* consultation. Again, the Commission must carefully consider the outcomes of these consultations to ensure any reforms support greater harmonisation across consumer protections.

Our detailed comments are provided below. If you have any questions or wish to discuss any aspect of our submission, I can be contacted via email at shaun.ruddy@alintaenergy.com.au

Yours Sincerely

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Manager National Retail Regulation

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Alinta Energy notes the AEMC has made a more preferable rule change combining four of the previously proposed Energy and Climate Change Ministerial Council (ECMC) rule changes:

- *Ensuring energy plan benefits last the length of the contract*
- *Removing unreasonable conditional discounts*
- *Preventing price increases for a fixed period under market retail contracts*
- *Removing fees and charges.*

The combined preferable rule change is titled the "*Improving Consumer Confidence in Retail Energy Plans*" draft rule determination. The draft rule seeks to address the asserted issue of a loyalty penalty and a lack of certainty on prices when a customer's benefit comes to an end, and to restrict the application of fees and charges, while also limiting price variations.

It should be noted, however, that under current regulatory and licence requirements, as set out in the National Energy Retail Rules and the National Energy Law, retailers are already governed by a number of obligations that address aspects of each of the draft rule proposals.

These include requirements to ensure communications around the clarity and certainty of prices and product benefits are provided to customers in a timely manner, enabling them to consider and explore alternative options. Price variation communication obligations are also detailed, ensuring customers receive timely, clear, and transparent information.

Any amendment to existing rules and obligations must be supported by clear evidence and data demonstrating a failure of the current framework. In the absence of this, and without a clear understanding of the consumer benefit arising from the proposed rule change, any such change should be deferred until there is evidence to support the need for reform.

Further, in line with good governance and regulatory practice, any proposed rule change must only be introduced and applied on a prospective basis. The retrospective application of any rule introduces unreasonable compliance and commercial risk and further complicates the system and process changes required to implement any proposed rule.

Contracts would be limited to the standing offer price when benefits change or expire

Draft determination - *contracts with expired or changing benefits would be limited to the standing offer price*

The draft rule would introduce a consumer protection that retailers would be required to limit the prices that customers pay to the standing offer prices (or less) if the customer is on a contract where the benefits expire or change before the contract ends.

The proposed "Benefit Change" rule should not alter the existing opportunity for retailers to offer customers a new market contract prior to the expiry of any current benefit, including offers that may introduce a new benefit with a future expiry date. Retailers are already subject to comprehensive communication and notification obligations to inform customers where an upcoming benefit is due to expire, and these requirements remain sufficient to ensure customers are fully aware of any changes to or the end of a benefit associated with their energy contract.

Where a customer engages with their retailer following a benefit change or expiry, any new pricing arrangement will reflect the mutually agreed terms and be clearly consented to by the customer. In this context, the proposed requirement that limits retailers to charging the standing offer price should apply only to customers who do not engage with their retailer before or at the time their benefit changes or ends. Essentially, these customers are opting for the "Do Nothing" option and will receive the standing offer price, aligning with current market practice.

Retailers will require a minimum transition period of 12 months to implement the necessary system, process, and contractual changes to comply with the proposed rule.

The draft rule also seeks to address the Commission's concerns regarding price differences between customers on older offers and those on newer ones. However, the Commission's perspective does not fully reflect the commercial and regulatory environment in which offers are developed. It overlooks the influence of market conditions at the time each offer is made and fails to consider the competitive pressures and risk settings that shape pricing decisions.

Retail pricing and product structures naturally evolve over time in response to changes in wholesale costs, operational risks, and market dynamics. The length and nature of any benefit offered are a reflection of these factors. Retailers are already required to disclose the conditions of any benefit, including its duration and expiry, and to provide advance notice of any changes. Additionally, the Best Offer or Better Offer requirements ensure that retailers regularly inform customers whether they are on the most competitive offer available, providing customers the opportunity to act on this information and switch to more suitable options if they choose.

Protections from de-energisation for customers on deemed customer retail contacts.

As part of the rule amendments for the "Benefit Change" rule amendment, the Commission is also seeking to remove Clause 115 *De-energisation for <u>non-notification</u> by move-in or carry-over customers* from the NERR.

The reason given is that, at the end of a fixed-term retail contract, a disengaged customer who does not enter into a new contract becomes a carry-over customer on a deemed arrangement. Under current rules, this customer may be disconnected under Clause 115. The Commission believes this risk of disconnection is not appropriate for disengaged customers.

However, Clause 115 currently applies to two types of customers: carry-over customers and move-in customers. In the case of carry-over customers, retailers usually already hold their contact details, which helps manage non-payment risk.

For move-in customers, this is not the case. If they do not contact the retailer or enter into a contract, the retailer may not have any of their information. In these situations, it remains important that Clause 115 allows disconnection to manage risk.

Therefore, rather than removing the clause entirely, it would be more appropriate to amend Clause 115 so that it only applies to move-in customers.

Removing unreasonable conditional penalties

Draft determination: *The draft rule would mean that:*

- *customers with high discounts linked to payment conditions would receive the discount whether or not they meet the payment condition*
- *customers with high fees linked to payment conditions would have their fees reduced to reasonable levels*

The proposed draft rule would remove the ability to apply "unreasonably" high conditional discounts by requiring that such discounts be applied automatically, regardless of whether the customer meets the associated conditions.

Since the 2020 rule change that limited conditional fees and discounts on new contracts to the retailer's reasonable costs, retailers have made ongoing efforts to transition legacy customers off older products with high conditional discounts. Despite these efforts, progress has been uneven. This reflects the practical challenges of contacting disengaged customers, ensuring that any new offer aligns with evolving customer preferences and expectations, and securing consent.

Many legacy contracts were established under different market conditions, and any changes must be handled with particular care. Retailers must ensure that communications are clear, that customers understand the implications of any change, and that consent is explicitly obtained.

The proposed rule would require retailers to amend both the terms and conditions, and the pricing arrangements, of contracts held by customers on legacy products. These are core elements of the agreement between retailer and customer, and any variation must be undertaken in a way that preserves trust and upholds customer protections.

Even where a change may appear to be in the customer's favour, regulatory and contractual obligations still require retailers to provide appropriate notice and secure the customer's consent.

Given the resources required to meet these obligations and the potential complexity involved in transitioning legacy customers, the transitional period set out in the proposed draft rule should be extended to 18 months from the date of implementation.

Restricting price increases under market retail contracts

Draft determination: *The draft rule would:*

- *Only allow retailers to increase prices once every 12 months for all existing and new market retail contracts.*
- *Require retailers to inform customers when prices may change under the contract prior to the customer entering a contract. For example, customers would need to be informed that prices could increase in July each year.*
- *Require retailers to provide customers 20 business days' notice before the customer's new tariffs will apply.*
- *Provide limited exceptions to the 12-month rule,*

Alinta Energy acknowledges the Commission's intent to provide more certainty around price changes. However, we are concerned that the proposed draft rule change would extend the advanced notification period for price variations to 20 business days.

In previous years, delays in the release of the final DMO determination have already had flow-on impacts for retailers in delivering advanced notification of price variations. Increasing the notification period to 20 business days would only further impact retailers' ability to meet required timeframes.

While the Commission suggests that allowing price variations to take effect at any time in July mitigates this risk, it has not fully considered that network pricing determinations take effect from 1 July. Retailers must ensure that retail price variations, which reflect updated network charges, take effect as close as possible to 1 July. Failing to do so would create a misalignment between network and retail prices, which, depending on the level of variation and the timing of the adjustment, could be significant.

Further, the Commission's comments that the draft notice requirements align with those for the end of fixed-term contracts and benefit period notices are not directly relevant in the context of price variations. Unlike end-of-contract or end-of-benefit activities, price variations carry a greater degree of commercial risk for retailers.

If, moving forward, price variations are limited to the month of July each year, the need for an extended advanced notification period becomes less significant. The annual cycle of price changes will be predictable, and customers will anticipate these adjustments, reducing the necessity for a longer notice period.

Restricting Fees and Charges

Draft determination: *The draft rule would:*

- *prohibit retailers charging any ancillary fees and charges to:*
    - *hardship customers*
    - *customers on payment plans*
    - *customers experiencing family violence*
    - *customers receiving a concession*
- *restrict all ancillary fees and charges to reflect the reasonable costs incurred by the retailer, for all customers*
- *prohibit account establishment fees and special meter read fees for move-in/out, for all customers*
- *require retailers to provide at least one free payment method that is commonly used and easily accessible for their customers*

The proposed draft rule would prohibit retailers from charging ancillary fees and charges to hardship customers, customers on a payment plan, customers receiving a concession, and customers affected by family violence.

However, further clarification is needed regarding the categories of customers to be included in this prohibition, particularly in relation to "customers on a payment plan." While our presumption is that this would <u>not</u> apply to customers who have chosen a payment plan for convenience, this should be explicitly clarified. The broad reference to "customers receiving a concession" may also require more precision, as concession categories vary across jurisdictions. Given the current lack of clarity, there is a risk that the prohibition may extend to a broader group of customers than intended.

While Alinta Energy supports ensuring that customers are not exposed to unreasonable fees and charges, we believe that any fees and charges imposed should reflect the actual costs incurred by retailers in providing the associated services. If such a fee or charge is a pass-through cost, meaning it is levied by a third party and passed on to the retailer, and it is prohibited from being passed on to customers, the retailer must absorb this additional cost. This cost must be recognised as an extra operating expense and accounted for in future DMO pricing determinations, ensuring that these costs are appropriately managed.

If any Network fees or charges are included in the prohibition and cannot be passed on to vulnerable customers, the Network should be prohibited from imposing those costs on the retailer.

We also query the rationale for prohibiting special meter read fees for move-in/move-out situations for all customers. It seems inequitable for the broader customer base to bear the cost of this service, especially as it may be requested multiple times throughout a customer's relationship with the retailer. If the prohibition on special meter read fees for move-ins and move-outs remains, then the Network (or Metering Coordinator) should be prohibited from passing these costs on to the retailer.

Ultimately, it is important to recognise that fees and charges reflect actual costs incurred by retailers. Any narrowing of the customer base from whom these costs can be recovered will inevitably lead to higher prices for all customers, including those who are not responsible for those costs.